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C O N F I D E N T I A L SECTION 01 OF 03 CARACAS 000361

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TAGS: [PGOV](#) [KDEM](#) [KJUS](#) [VE](#)
SUBJECT: VENEZUELA: CHAVEZ PICKS NEW CHIEF JUSTICE

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[B](#). 06 CARACAS 01892
[C](#). 06 CARACAS 1627
[D](#). 06 CARACAS 1713

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Classified By: POLITICAL COUNSELOR ROBERT DOWNES FOR 1.4 (D)

Summary

[1](#). (C) On February 7, Chavez' hand-picked candidate, Luisa Estella Morales, was elected Chief Justice of the Venezuelan Supreme Tribunal of Justice (TSJ). Morales, who also sits on the President's constitutional reform committee, retained the presidency of the TSJ Constitutional Chamber and, as a result, will be able to shut down legal challenges to any decree laws or constitutional amendments passed. She will also head the Judicial Committee, which is responsible for disciplining judges, an ironic choice given her alleged corrupt past. TSJ Justice Deyanira Nieves, a hard-line Chavista with ties to Vice President Jorge Rodriguez, became First Vice President of the court and head of the Penal Chamber. The choices underscore Chavez' focus on loyalty and implementing a new "socialist" legal regimen, but say less about his commitment to rooting out corruption. End Summary.

New Chief Justice Politically, but Not Legally, Qualified

[2](#). (C) On February 7, the Supreme Tribunal of Justice (TSJ) held internal elections for the Chief Justice, First and Second Vice Presidents, heads of each of the six TSJ chambers (Constitutional, Administrative, Social, Civil, Electoral, and Penal) and the President of the Executive Directorate of the Magistracy (DEM). TSJ Justice Luisa Estella Morales was elected Chief Justice in a vote that fellow Justice Blanca Rosa Marmol described to Poloff as a mere "rubber stamp" of a Chavez decision. (Note: Three judges, including Marmol, abstained from the vote.) Morales was also re-installed as head of the Constitutional Chamber and the Judicial Committee. She is also a member of Chavez' constitutional reform committee and her family reportedly has ties to Chavez. Leftist opposition stalwart Teodoro Petkoff's daily Tal Cual has also linked her to Foreign Minister Nicolas Maduro and his common-law wife, National Assembly President Cilia Flores. Morales was one of the justices added to the court after the 2004 TSJ Law that allowed the BRV to pack the

court with its supporters. Ironically, Morales is allegedly legally ineligible to be a TSJ Justice as she has been dismissed twice from judicial duties for exceeding her authority and violating Venezuelan law, according to Marmol, who has reviewed Morales' file.

13. (C) As head of the Constitutional Chamber, Morales will decide on any cases related to the Enabling Law, the ongoing constitutional reform process, and the resulting constitutional changes she is currently helping to craft, positioning her to shut down any challenges to Chavez' "socialist" agenda. Morales defended her membership in the constitutional commission, saying that the judicial system should not be isolated from the process. Many opposition figures have called for her to either step down from the presidential commission or recuse herself from future cases regarding the constitutional amendments or presidential decrees.

Bad Precedent for Land Issues

14. (C) Morales holds degrees in agrarian law and related studies from universities in Venezuela, Colombia, Italy, and France, and has professed a personal passion for the plight of the campesino or small farmer. As a judge in the agrarian court, she responded to a sharecropper's request for the right to work on a particular farm by dividing up the farm and redistributing the land to various farmers. The decision led to her first dismissal for exceeding her authority and violating the law. Years later, Morales manifested her affection for the subject when she drafted the 2001 Land Law, allowing the government to arbitrarily expropriate land it determined to be idle. In 2002, the TSJ declared parts of the law--such as the expropriation clause--unconstitutional, but Chavez has sought to bypass the decision using decree

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laws. Morales will likely use her position both on the constitutional reform commission and as Chief Justice to help redefine the legal concept of private property.

. . .And Chavez Opponents

15. (C) Morales' second dismissal came in 2004 when the BRV closed down the First Administrative Court and sacked all of its judges after a series of rulings against the government. (Note: Ex-judge Monica Fernandez told Poloff the BRV has since re-opened the court, but divided it into two chambers to keep it in check.) Judicial contacts are unsure how Morales ruled in these decisions, but press accounts indicate she did dissent on important political cases, such as claims against the Cuban-run Barrio Adentro medical program and petitions for reinstatement from PDVSA workers fired for participating in the 2002-2003 national strike. Since then she has loyally defended the BRV by, for example, helping to overturn the acquittal of eight generals involved in the April 2002 coup. Most recently, she has supported Chavez' attempt to shut down RCTV, admitting a case against the television station for allegedly showing "pornographic publicity."

No Poster Child for Chavez' Anti-Corruption Campaign

16. (C) As head of the Judicial Committee Morales will be able to discipline lower court judges, but her past record and reputation for impropriety suggests little real headway will be made in Chavez' declared war on corruption, although it will likely be used as a tool against any remaining Chavez opponents. Fernandez told Poloff corruption charges had at one time been pending against Morales for earlier cases she

presided over, but they seem to have since disappeared. Tal Cual alleges that Morales was close to disgraced TSJ Justice Luis Velazquez Alvaray, who was impeached for allegedly misappropriating funds earmarked for purchasing various judicial complexes throughout the country (Refs A and B). According to judicial contacts and the daily, Morales received a cut of Velazquez' improper dealings as well.

First Vice President Also Benefits From Personal Ties

17. (C) Deyanira Nieves became First Vice President of the TSJ and head of the Penal Chamber, replacing Eladio Aponte

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Aponte in the latter post. Nieves' father was a former leftist guerrilla and cohort of former Vice President Jose Vicente Rangel and Jorge Rodriguez, the current Vice President's father. She grew up with the Vice President. Marmol told Poloff Nieves is a hard-line Chavista and is known for occasionally breaking out in passionate rants on socialism and Bolivarianism. According to Fernandez, Nieves began her judicial career as a clerk for a former TSJ Justice and was fired for incompetence. As an appeals court judge, Nieves handled a number of politically-charged cases, including Baruta Mayor Henrique Capriles' first trial and one involving former Caracas Mayor and Chavez defector Alfredo Pena. In addition to her new elected posts, Nieves will also retain supervisory control of the Public Defender's Office, although we understand there may be plans to transfer that office to the Attorney General. She, too, entered the court during the 2004 expansion.

Second Vice President

18. (C) Less is known about Second Vice President Luis Alfredo Sucre, who now also heads the Electoral Chamber. Sucre holds a master's degree in urban education, in addition to a degree in civil law, and was simultaneously a university professor for much of his legal career. Like his other two counterparts, he also entered the TSJ in 2004, initially as a nominee for the Civil Chamber. While in the Electoral Chamber Sucre has ruled on some key cases, including the rejection of several challenges to the 2004 recall referendum and the suspension of student elections at the University of the Andes when it became clear that the Chavista candidate would not win. The latter ruling led to several days of violent protests and BRV allegations that have caused the

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opposition candidate, Nelson Moreno, to go into hiding (Refs C and D).

Comment

19. (C) While the TSJ's new leadership is not any more or less radical than the previous, it does reflect an emphasis on loyalty and trustworthiness. It also suggests Chavez will likely renew his efforts at land reform and shut down dissent through legal means, but only pay lip service to the fight against corruption.

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